



United States
Department of
Agriculture

Food and
Nutrition
Service

Mountain
Plains
Region

1244 Speer Boulevard
Denver, CO 80204

Reply to
Attn. of: SP 94-C-14

NOV 8 1993

Subject: Competitive Procurement by Food Service Management Companies (FSMCs)

To: STATE AGENCY DIRECTORS - Colorado ED, Iowa, Kansas, Missouri ED,
(Special Nutrition Programs) Montana OPI, Nebraska ED, North Dakota,
South Dakota, Utah and Wyoming ED

One of the more common types of FSMC contracts is referred to as a "cost-reimbursable contract." Under such contracts, school food authorities (SFAs) typically agree to reimburse the FSMC for allowable costs, such as purchased supplies, food, equipment, and other services.

Recently, we have been asked whether the competitive procurement requirements contained in program regulations (7 CFR 210.21, 7 CFR 215.14a, and 7 CFR 220.16) apply to FSMCs operating under a cost-reimbursable contract.

Under such a contract, the FSMC is simply passing its costs on to the SFA, and is essentially acting as the SFA's agent in purchasing supplies, food, etc. Therefore, effective July 1, 1992, all cost-reimbursable FSMC contracts must have a provision stating in effect, that the FSMC will, during the course of fulfilling its obligations under the contract, conform with Federal procurement standards and use and document competitive procurement procedures for obtaining all goods and services used under the terms of the contract.

Competitive procurement applies but is not limited to the following items:

1. food items including meat, groceries, produce, milk and bread;
2. non-food items including cleaning supplies, paper products, small wares and equipment;
3. promotional/marketing items including posters, signs, menu boards, t-shirts, and pamphlets;
4. warehousing/transportation of USDA commodities; and
5. any other purchased items which are billed to the SFA and are not included as part of the management fees or other fixed fees of the contract.

Conformance with this contract provision is to be monitored by the SFA during the periodic monitoring activities specified by Part 210.16.

If you have any questions, please call our office at (303) 844-0355.

Ann C. Hector

ANN C. HECTOR
Regional Director
Special Nutrition Programs